



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, FFL

Introduction

In this application, the landlord had sought a monetary order for unpaid rent, and for recovery of the filing fee, pursuant to sections 67 and 72, respectively of the *Residential Tenancy Act* (the “Act”).

The landlord filed an application for dispute resolution on May 26, 2020 and a dispute resolution hearing was held on September 28, 2020. The landlords (only one landlord was named on the application) and the tenant’s agent (the tenant is a numbered company) attended the hearing and were given a full opportunity to be heard, present testimony, make submissions, and call witnesses. No issues of service were raised by the parties. The tenant confirmed that a copy of his written submission in respect of the preliminary matter, to which I shall shortly turn, was provided to the landlord.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the preliminary issue of this application.

Preliminary Issue: Jurisdiction and *Res Judicata*

The tenant’s written submission noted that there is a matter before the Supreme Court of British Columbia involving the tenancy, along with other matters. The damages sought are far in excess of my \$35,000.00 jurisdictional amount, and, it should be noted that a previous decision of the Director under the Act of May 8, 2020, decided that the Director is without jurisdiction. Moreover, the tenant’s agent explained that there has been no substantial or material change in the dispute as it was on May 8, 2020, that would or might bring about a change in jurisdiction.

On the basis that (1) this matter has already been decided upon (and thus the principle of *res judicata* shall apply), and, (2) that this matter is linked substantially to a matter that is presently before the Supreme Court, I therefore find that I am without jurisdiction to accept and resolve the landlord's application.

For reference, section 58(2)(c) of the Act reads as follows:

- (2) Except as provided in subsection (4), if the director accepts an application under subsection (1), the director must resolve the dispute under this Part unless [. . .]
- (c) the dispute is linked substantially to a matter that is before the Supreme Court.

Conclusion

In summary, I find that I have no jurisdiction to consider this application.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: September 29, 2020

Residential Tenancy Branch